

COMPARING STATES' WORKERS' COMPENSATION BENEFITS AND COSTS

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(Narrative for presentation)

Introduction/Slide 1:

The January/February 2006 Worker' Compensation Policy Review by John F. Burton, Jr. presented an article that examined some of the data already available that can be used to compare states' workers' compensation programs. The data selected are available for all or almost all states. The article presented a template that can be used by any state to compare itself with other states.

The data are included in:

- Workers' Compendium 2005-06 Volume One (Burton, Blum, and Yates 2005)
- Workers' Compendium 2005-06 Volume Two (Burton, Blum, and Yates 2005)
- National Academy of Social Insurance (Sengupta, Reno, and Burton 2005)
- Workers' Compensation Policy Review November/December 2005 (Blum and Burton 2005)

Three broad categories of data are examined:

- 1) Statutory workers' compensation benefits – benefits prescribed by state statutes
- 2) Benefits actually provided to workers
- 3) Employers' costs of workers' compensation insurance

For each category, there are multiple choices of data and the choices of which measures of benefits or costs are used for comparison can produce different rankings. Using the template, we compared Montana with the 12 states we decided to include in our study.

The first slides you'll see compare the cash benefits specified by the statutes for temporary total disability benefits, for permanent partial disability benefits, and for all types of cash benefits. The purpose of this statutory comparison is to see if one particular class of benefits is inconsistent with all classes of benefits.

SLIDE 2:

Workers' compensation programs provide temporary total disability benefits to workers who are unable to work in the initial period after the injury. The TTD benefits in each state are subject to a maximum weekly benefit. These weekly maximums vary considerably among the states. This 1st measure of consistency shows a ratio of 2 to 1 between the highest and lowest states – OR at 135% of the national average and Kansas at 66%. Montana ranks 10 among the study states and is about 26% below the national average.

In the template, Burton compared the maximum as of 1/05 with the state's AWW in 2002 and computed the maximum weekly benefit for TTD as a percentage of the state's AWW. In that comparison, Slide 2 shows the 2005 benefit amount at 106% of the 2002 state AWW. We didn't think this was the best comparison to make so we compared it differently – this is an example of how the choice of data changes the ranking.

SLIDE 3:

This slide uses data from the January 2005 USDOL publication on states workers compensation laws. This comparison shows Montana ties for a ranking of 4th among the study states and actually represents our statutory benefit – our weekly TTD rate is always 100% of our State's AWW – prescribed by statute. This measure shows less than a 2 to 1 ratio between the highest and lowest states. Some reasons maximum weekly benefits vary among

states is that the AWW varies among states, and the statutory replacement rate varies – OR's weekly benefit is at 133% of the state's AWW and Kansas's is at 75% of its AWW.

SLIDE 4:

This slide compares the maximum statutory benefit for Permanent Partial "Nonscheduled" Benefits as of 1/05. PPD benefits are paid to workers who have permanent consequences of their workplace injuries but are not totally disabled. Typically the largest share of cash benefits are paid in cases involving PPD benefits. PPD are the most difficult benefits to compare because every state has a different method of calculating benefits. Some states use "schedules" to determine PPD. For example, the loss of an arm may be worth a specific number of weeks of benefits or a specific dollar amount of benefits. Other states, like Montana, use what are typically called "nonscheduled" benefits. For example, a percentage or dollar amount is assigned to different disability factors, such as impairment, age, education, restrictions, and/or wage loss resulting from the injury and a formula is used to calculate the benefit.

In Burton's article, scheduled benefits were used to compare PPD. Since MT doesn't use that method of paying benefits, we used the 1/05 USDOL publication as a source to compare the states' maximum "nonscheduled" PPD benefits.

This comparison ranks Montana at least 10th among the states studies. (91,312? Should be \$252 x 375 weeks = 94,500 – but same ranking). There was no dollar amount for OR, SD, or WY in which to compare. This second measure of consistency shows a ratio of almost 3 to 1 between the highest and lowest states for the maximum statutory PPD benefit. MT's maximum PPD benefit is approximately 45% below the average represented by the study states.

SLIDE 5:

Another approach to comparing the benefits provided in statutes is represented by this slide. The expected cash benefits for all types of cash benefits (temporary total, permanent partial, permanent total, and death benefits) prescribed by each state's statutes using an actuarial procedure. The expected benefits do not refer to the amounts actually paid, but to the benefits prescribed by the various statutes. The source of this data is from Actuarial and Technical Solutions, Inc. (A&TS). A&TS calculates a national average for all US jurisdictions and then publishes an index number showing the ratio of expected benefits in each state compared to the national average. This 3rd measure shows a ratio of about 2 to 1 between the highest and lowest states. The data shown in this slide indicates that Montana ranks 9th among the study states and 41st among the nation. MT's expected cash benefits are approximately 18% below the national average.

The measures in the preceding slides are intended to show whether there's consistency between the measures for statutory benefits. TTD benefits and Expected cash benefits are consistent at a ratio of 2 to 1 among the study states. PPD benefits have a ratio of almost 3 to 1 among the states. Burton suggests these measures can be used to determine if states "trade off" generous features of one type of cash benefits for less generous features of another type of cash benefit.

Again, the purpose of the statutory comparison is to see if one particular class of benefits is inconsistent with all classes of benefits. It appears from this comparison that MT ranks consistently among the study states for all types of cash benefits.

The next set of slides you'll see compares two sources of data on cash and medical benefits actually provided to workers, as opposed to statutory benefits.

The National Academy of Social Insurance (NASI) annually publishes estimates of the total amount of workers' compensation benefits paid for medical benefits, the total of wages for workers covered by the program, and the benefits per \$100 of covered wages. The information is available for all states. The latest data are for 2003. **The data pertain to benefits paid in a particular year regardless of the year in which the workplace injury or disease occurred.**

SLIDE 6:

This slide shows the comparison of the total (cash plus medical) benefits per \$100 of payroll in 2003. Each state's total benefits are shown as a percent of the national average. The range is from 182% of the national average in MT to 58% of the national average in Utah.

SLIDE 7:

The percentage of benefits accounted for by medical benefits is shown in Column 1. The range is from 65.4% in Utah to 34.4% in Washington, with a national average of 46.7%. This means these study states devote almost half of their benefits to medical care, with the balance accounted for by cash benefits. Medical benefits per \$100 of payroll in 2003 are shown in Column 2 and each state's medical benefits as a percent of the national average are displayed in Column 3. The range is from 210% of the national average in Montana to 72% of the national average in Colorado.

SLIDE 8:

Cash benefits per \$100 of Payroll in 2003 are shown in Column 1 and each state's cash benefits as a percent of the national average are presented in Column 2. The range is from 196% of the national average in Washington to 38% of the average in Utah. Montana cash benefits are 58% above the national average.

SLIDE 9:

The Workers' Compensation Policy Review regularly publishes two articles with data on incurred benefits. **The data pertain to the benefits for claims that result from injuries or diseases that occur in a particular year and include payments already made for those claims plus reserves for future payments for those claims.** The data are available for 42 or 43 jurisdictions. One of the WCPR articles provides data for 1985 to 2001 on total benefits, cash benefits, medical benefits, and total benefits (cash plus medical) per 100,000 workers.

The incurred total benefits (cash plus medical) per 100,000 workers are shown in Column 1. The state's total benefits as a percent of the national average are shown in Column 2. The range is from 143.9% of the national average in Montana to 46% of the average in Utah. Data wasn't available for ND, WA, or WY – three state fund only states.

SLIDE 10:

The incurred medical benefits per 100,000 workers are shown in Column 1, with the state's average as a percent of the national average presented in Column 2. The range is from 171% of the national average in Montana to 55.7% of the average in Utah.

SLIDE 11:

The incurred cash benefits per 100,000 workers are shown in Column 1 and the state's benefits as a percent of the national average are shown in Column 2. The range is from 110% of the national average in Montana to 34% of the average in Utah.

Montana is consistently the state in the study group with the highest level of incurred benefits per 100,000 workers.

SLIDE 12:

Another WCPR article presenting information on incurred benefits, which was reprinted in the Compendium Volume One, presents data for 1995 to 2000 on the frequency, average benefits per claim, and benefits per 100,000 workers for four types of cash benefits and for medical benefits showed that PPD benefits are the type of cash benefits with the greatest variability among states.

So Slide 12 presents the PPD cash benefits per 100,000 workers in Column 1. Column 2 shows the amount of incurred cash benefits per 100,000 workers for PPD benefits varies for the study states from 84.6% of the national average in Colorado to 21.6% of the average in Utah. MT's incurred PPD cash benefit per 100,000 is approximately 30% below the national average.

So when we compare the benefits actually provided to workers in MT to the statutory benefits prescribed in MT we find significant inconsistencies between the rankings and comparisons to the national averages.

MT consistently ranked low in the prescribed statutory benefits and consistently ranked high in the benefits actually paid to workers.

Burton suggests such inconsistencies may be due to administrative practices and legal doctrines (case law). Another explanation in MT could be that the statutory benefits are what are prescribed today in the statutes and the paid benefits represent numerous claims with numerous dates of injuries in which greater statutory benefits are paid.

The last two slides you'll see show two sources of data on the employers' costs of workers' compensation insurance.

SLIDE 13:

The OR Department of Consumer & Business Services publishes the average manual rates for 50 insurance classes weighted by OR payroll. The rate rankings are available for 51 jurisdictions for even-numbered years between 1986 and 2004. The manual rates are not adjusted for factors that influence the insurance costs actually paid by employers, such as experience rating, dividends, deviations, and schedule rating.

The premium rates per \$100 of payroll in 2004 are shown in column 1. The state's premiums as a percent of the national average are presented in column 2. The range for premium rates is from 134.9% of the national average in Kentucky to 41.1% of the national average in North Dakota.

SLIDE 14

Another approach to measuring workers' compensation insurance rates is taken by A&TS. The employers' costs of workers' compensation insurance for manufacturing classes are available for 45 jurisdictions for each year between 1992 and 2005. The manual rates or pure premiums for the insurance classes are adjusted for factors such as experience rating, dividends, deviations, and schedule rating to produce what A&TS terms the state's comparative cost. In turn, the state's comparative cost is divided by the countrywide average comparative cost to produce an index rate. Burton and Blum multiplied each state's index rate by the countrywide average comparative rate to produce the net costs per \$100 of payroll for each state.

The net costs per \$100 of payroll in the manufacturing section in 2005 are shown in Column 1 and the state's costs as a ratio of the national average of costs are shown in Column 2.

The range of net costs is from 112.4% of the national average in Tennessee to 58% of the national average in Arkansas.

There is consistency between the two measures of the employers' costs of workers' compensation insurance in Montana. The two measures represent the employers' expenditures on workers' compensation insurance as a percent of payroll.

Montana insurance costs rank 2nd among the study states in the OR study and 3rd among the study states in the Manufacturing study and both rankings are above the national average, although the Manufacturing study shows MT at only 5.3% above the national average and the OR study shows MT at 32.2% above the median.

SUMMARY:

What are the relationships among the three broad categories of workers' compensation data examined in this study?
Are there consistent patterns among these categories of data?

What is the relationship between the statutory benefits and the benefits provided to workers?

What is the relationship between the benefits provided to workers and employers' costs of workers' compensation insurance?

Montana presents an inconsistency between statutory and paid benefits. Statutory benefits are consistently lower than the national average and ranks low among the study states. Benefits paid to workers and the employers' costs of insurance show considerable consistency and are significantly higher than the national average and ranks high among the study states. It appears MT could be classified as a "high-benefit" - "high-cost" state.

In Burton's article, however, he cautions states about drawing inferences about the employers' costs of workers' compensation in a jurisdiction based on the benefits paid to workers in that jurisdiction. He states "employers should be interested in the premiums that comparable employers are charged in various states. Aggregate paid benefits relative to total wages in a state do not provide a reliable guide to the insurance rates that a particular employer would be charged in that state for several reasons. First, an employer in a state in a high-risk industry would not necessarily have lower costs if it moved to a state with predominantly low-risk industries, since the employer will still be in a high-risk insurance classification. Second, charges in state workers' compensation provisions will affect rates for new insurance policies (since they are based on incurred benefits in the policy period) but will not affect paid benefits, which are in large part determined by injuries in previous policy years. Third, the relationships between benefits and insurance costs vary among states because of factors such as the administrative costs and profits (or losses) of carriers."

Finally, Burton also cautions against reducing the employers' costs by legislatively reducing benefits paid to workers. He thinks the evidence supports that workers' compensation benefits are inadequate. Since the primary determinant of workers' compensation costs for employers is the benefits paid to workers, lowering the costs for employers by reducing benefits results in even more inadequate benefits for workers.